IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 935/2006

Office Notes, Office Memoranda of Coram, : Appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

Mr. Mohan Sudame, Advocate, for the Applicant.

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Coram : K. J. ROHEE, J
Dated : AUGUST 21st , 2006

1. Heard counsel for the applicant/original complainant. Respondent/ original accused is absent though served.

2. Leave to file appeal is granted.

Criminal Appeal No. _____/2006.

1. Heard counsel for the appellant/original complainant.

2. The appellant filed complaint case against the respondent under Section 138 of the Negotiable Instruments Act for dishonour of cheque for Rs. 25,000/-. After issuance of process, the respondent appeared and the trial proceeded. On 16.1.2006, the case was fixed for evidence of the appellant/complainant. However, on that day he did not turn up. Hence on 17.2.2006 the trial Court dismissed the complaint and acquitted the

respondent/accused. The present appeal is directed against the said dismissal.

3. It is submitted by the learned counsel for the appellant that the appellant could not remain present because of the transfer of the case from one Court to another. This reason appears to be sufficient for his absence. In these circumstances, I think it expedient in the interest of justice to set aside the impugned order. In my opinion, imposition of cost would meet the ends of justice. Hence the order:

i) The appeal is allowed. The order dated 17.2.2006 dismissing the complaint and acquitting the respondent/accused is quashed and set aside subject to deposit of costs of Rs.500/- with the High Court Legal Services, Sub Committee Nagpur within two weeks.

ii) The matter is remanded back to the trial Court for disposal according to law. The appellant is directed to remain present before the trial Court on 11.9.2006.

JUDGE

halwai.